S.B. Civil Writ Petition No.5323/2004
(Smt. Santosh Gehlot v/s State and Ors.)

Date of Order : 7/12/2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. Hemant Kumar Jain, for the petitioner/s

Heard learned counsel for the petitioner.

Brief facts of the case are that according to the petitioner she was resident of municipal area of Sriganganagar. She was eligible for contesting the election for the Municipal Board, Sriganganagar from Ward No.32. The last date for submission of the nomination paper was 9.11.2004. According to the petitioner, she reached for submitting the nomination paper before the Returning Officer at about 12-12:15 p.m. in the office of Zila Parishad which is situated adjacent to the Collectorate premises in the District of Sriganganagar. The petitioner found that the office was opened but nobody was present there to accept the petitioner's nomination paper. The petitioner searched the officers for 20 minutes and found some officers sitting in the vacant room in the Collectorate of Sriganganagar and were enjoying 'Samosa', 'Kachori' and 'Tea' etc. There the petitioner was ill-treated by the concerned officer and she was told that they will receive nomination paper after their finishing the party which they are attending. Ultimately, respondent No.3 told the petitioner that they should wait outside the room for

five minutes and the respondent No.3 told two officers to collect the forms and money from those who had not deposited the money before that time. According to the petitioner, he and other candidate shocked to see such behaviour of the respondent No.3. The petitioner submits that she approached to respondent No.4, District Collector, Sriganganagar and apprised him of the entire episode and requested him to interfere in the matter and sought direction from the respondent No.4 District Collector, Sriganganagar for the respondent No.3 to accept the petitioner's representation but according to the petitioner, respondent No.4 also reacted very casually and told the petitioner to appear before him next day i.e. 10.11.2004. The petitioner pleaded that the petitioner and four other candidates were prevented from filing their nomination forms. The petitioner appeared before the respondent No.4 on the next date on 10.11.2004 and submitted an application praying for accepting her nomination paper. The petitioner submitted a representation dated 10.11.2004 before the respondent No.4.

In view of above facts, according to the petitioner, he is challenging the election of Ward No.32 of the Municipal Council, Sriganganagar which were held after preventing the petitioner from submitting the nomination paper.

According to the learned counsel for the petitioner, Hon'ble Supreme Court in the case of Surendra Kaur v/s State of Punjab reported in AIR 1996 SC 1507 in identical facts and circumstances, set-aside the election of the Sarpanch on the ground that the petitioner in that case was prevented from contesting the election.

According to the learned counsel for the petitioner, there was police arrangement and restrictions were imposed by invoking provisions of Section 144 Cr.P.C. because of some public litigation. It is also submitted by the learned counsel for the petitioner the petitioner has recorded the events in 'CD'. Learned counsel for the petitioner further submitted that the representation was submitted to the Chief Election Commissioner by number of persons and copy of which is placed on record as Annexure-4.

I considered the submission of the learned counsel for the petitioner. It is clear from the facts mentioned in the writ petition itself that the office of the Returning Officer was adjacent to the Collectorate of Sriganganagar. There was restrictions imposed by invoking provisions of Section 144 Cr.P.C. Learned counsel for the petitioner admits that good number of police officers were employed there and according to the petitioner she was not alone but very many persons were there. It is also strange that as many as four candidates were alleged to have been

prevented from filing the nomination papers but petitioner has not given their particulars. Despite all these averments, it is clear that the petitioner did not produce the alleged 'CD' in which incident is recorded. Learned counsel for the petitioner admits that petitioner has not mentioned this fact in the writ petition. It appears that no other candidate prevented from submitting nomination paper raised grievance. Therefore, there is no material available on record by which it can be prima facie found that the petitioner was prevented from submitting the nomination paper. It appears more that petitioner though levelled the allegation but they appear to be highly improbable, in view of the fact that when there are so many police officers deputed there to see that no unfair incident may happen due to agitation at the time of receipt of nomination paper then how the officers can remain absent from the office.

Apart from it, there was no reason for not submitting the alleged 'CD' alongwith writ petition itself and there was no reason for not making any mention in the said 'CD' in the writ petition by the petitioner and that supression appears to be purposeful.

In view of the above, the facts of the case referred above has no application to the fact of this case and the relief granted in that situation cannot be granted to the petitioner.

In view of the above, there is no merit in this writ petition. Hence, this writ petition is dismissed.

(PRAKASH TATIA)J.

Rm/